Ram Charan Steels Ltd. Vs. Cce

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Aug-22-2002

Reported in : (2003)(85)ECC58

Judge : S T G.R., P Bajaj

Appellant : Ram Charan Steels Ltd.

Respondent : Cce

Judgement :

1. This appeal has been filed by the appellants against the impugned order dated 22.3.2000 passed by the Commissioner of Central Excise vide which he had disallowed their abatement claim for the period 16.5.1998 to 23.5.1998 and 26.5.1998 to 11.10.1998.

2. The appellants are engaged in the manufacture of M.S. Ingots. They lodged claim for the abatement of the Central Excise Duty under proviso to Sub-section (3) of Section 3-A of the Act for the period in question, i.e. 16.5.1998 to 23.5.1998 and 26.5.1998 to 11.10.1998. The Commissioner through the impugned order had disallowed the abatement to them mainly on the ground that they had failed to inform the Department in accordance with law about the time of the closure of the factory and also failed to furnish the electricity meter reading when production was stopped in their factory unit.

3. The learned counsel has contended that the documents produced by the appellants in order to prove the closure of their factory unit during the period in question had not been considered. The Electricity Department sealed the meter installed in the factory of the appellants and this fact has been also ignored by the Commissioner. The impugned order deserves to be set aside. On the other hand, the learned SDR, has only reiterated the correctness of the impugned order.

4. We have heard both sides. The bare perusal of the impugned order shows that the learned Commissioner has disallowed the abatement claim of the appellants mainly on two grounds; firstly that they had failed to supply the closure intimation on or prior to the date of closure of their unit as their letter of closure were received on 18.5.1998 instead of 16.5.1998 and on 28.5.1998 instead of 26.7.1998 respectively. Secondly they had failed to produce the electricity meter reading when the production was allegedly stopped in the unit by the appellants. But the learned counsel has referred to the documents brought on the file in order to prove the closure of the unit during the period in question and the disconnection of the electricity by the Electricity Department of the factory unit of the appellants. The learned counsel has also referred to the certificate issued by the Electricity Department in that regard. But verification about the genuineness of that certificate requires to be gone into. The other documents referred to by the learned counsel also require verification.

Therefore, under these circumstances, in our view, the matter deserves to be sent back to the Commissioner for verification of the documents relied upon by the appellants for deciding their abatement claim.

5. Consequently, the impugned order of the Commissioner is set aside and the matter is sent back to the adjudicating authority for de novo consideration of the abatement claim of the appellants after verifying the documents relied upon by them and they may also be permitted to produce the authenticated certificate from the Electricity Department regarding the non-consumption of electricity by them during the disputed period. An opportunity of hearing may also be afforded to the appellants before passing the order.